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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,344	07/08/2003	Edward Jonathan Brush	2502985-991100	8726
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DLA PIPER US LLP 153 TOWNSEND STREET SUITE 800 SAN FRANCISCO, CA 94107-1957			EXAMINER CUMARASEGARAN, VERN	
			ART UNIT 4132	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/615,344

Applicant(s)

BRUSH ET AL.

Examiner

Vern Cumarasegaran

Art Unit

3609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/19/03
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 states "...under one the at least one..." It is unclear as to what is meant by this phrase. Appropriate clarification is required. Also, the preamble of the claim specifies a system, yet an element of the claim recites "at least one computer system..." Appropriate clarification is required as to why the term "system" is recited twice in the claim.

Claims 16 and 21 recite the limitation "the electronic record" and claim 21 recites the limitation "relational database". There is insufficient antecedent basis for these limitations in the claims.

Claims 4 and 26 use the term "MLS." It should read "multiple listing service."

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10, 16, 18-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Florance et al (US 2002/0065739 A1).

3. As to claim 1, Florance et al. show a database for storing information (figure 1, no. A16) and a computer system that is communicatively coupled to the database and that is adapted to detect an event (paragraph 446 *where a user is notified when a deal is signed. Signed deals are interpreted to be obligations*).

4. As to claim 2, Florance et al. show events comprising real estate transactions (paragraph 152).

5. As to claim 3, Florance et al. show at least one computer system that is communicatively coupled to a realty data source, which provides data regarding the real estate transactions (figure 1).

6. As to claim 4, Florance et al. show at least one computer system that is communicatively coupled to an MLS system which provides data regarding property listings (figure 1 no. A24).

7. As to claims 5-9 and 40-44, future real estate agreements are considered non-functional descriptive material as per claim 1. Therefore, the composition of such agreements (future listing agreements, etc) is also non-functional descriptive material.

8. As to claim 10, Florance et al. show at least one computer system further adapted to generate electronic notifications to affected parties (paragraph 152). The content of the notice is considered non-functional descriptive language.

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9. As to claim 16, Florance et al. show at least one computer system comprising of an input device that is adapted to receive information regarding electronic records (figure 73).

10. As to claim 18, Florance et al. show at least one computer system comprising of an output device that is adapted to display output information from the at least one computer system (figure 73).

11. As to claim 19, Florance et al. show a print function (paragraph 361) that allows a user to print data. A printer for printing notifications to affected parties regarding obligations that have become due is considered non-functional descriptive material since the function of the ability to print data is shown, Florance et al. meet the claim.

12. As to claim 20, Florance et al. show database comprising of a multidimensional relational database (paragraph 379).

13. As to claim 21, Florance et al. show at least one computer system further adapted to create the electronic records and store the created electronic records in the relational database (paragraph 379).

14. As to claims 22, 30, 34, 37, and 38, Florance et al. show creating an electronic record (paragraph 38 *where the "assembled" information on commercial real estate in databases is derived from listing agreements* (paragraph 71)). Florance et al. also show storing the electronic records in a relational database (paragraphs 135 & 379).

Florance et al. further show monitoring of individual searches related to real estate transactions (paragraph 322 *where obligations becoming due is considered to be listing contracts being introduced to the system*).

15. As to claim 23, 31 and 35, Florance et al. show notification of affected parties (paragraph 322 *where obligations becoming due is considered to be listing contracts being introduced to the system*).

16. As to claim 24, 32 and 36, Florance et al. show facilitating payment to a participant (paragraph 377 *where completion of an "expanded search" is considered to be the fulfillment of an obligation*).

17. As to claim 25, 33 and 39, Florance et al. show monitoring of real estate transactions comprising of comparing data regarding the real estate transactions to the electronic records (paragraph 322 *where the referenced database is a relational database* (paragraph 379)).

18. As to claim 26-29, obtaining data regarding the real estate transactions from sources such as a multiple listing service, internet database, real estate provider database and lien database is considered non-functional descriptive language because it merely provides different sources for collecting real estate transaction information. The source of the real estate information has no effect on the functionality of the invention because each of the mentioned databases do not modify the method in a unique way. If one of the sources were to be replaced with a new source, it would not have a functional impact on the method step provided. Florance et al. show obtaining data regarding real estate transactions from property databases (figure 1).

### ***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Florance et al. in view of Craig et al. (US 20040122770 A1).

21. As to claim 11, Florance et al do not expressly show a computer system comprising of an n-tier software platform that provides operational control of the system. However, Craig et al. show an n-tier software platform that provides operational control of the system (paragraph 19). It would have been obvious to one of ordinary skill in the art to provide an n-tier software platform that provides operational control of the system because it would give the system operator the flexibility to upgrade or replace the tiers independently as technology changes. This would allow the system operator to provide enhanced customer experience using the system.

22. As to claim 12, Florance et al. do not expressly show the software platform comprising a presentation tier, a middleware tier and a database tier. However, Craig et al. show software platform comprising a presentation tier, a middleware tier and a database tier (figure 1). It would have been obvious to one of ordinary skill in the art to provide a software platform comprising a presentation tier, a middleware tier and a database tier because it would give the system operator the flexibility to upgrade or replace the tiers independently as technology changes. This would allow the system operator to provide enhanced customer experience using the system.

23. As to claim 13-15, Florance et al. do not expressly show the specific configuration of the middleware tier, presentation tier and the database tier as outlined

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in the claims. However, Craig et al. show the specific configurations of middleware tier presentation tier and the database tier as outlined in the claims (paragraph 19 and figure 1). It would have been obvious to one of ordinary skill in the art to configure the middleware tier, presentation tier and the database tier as outlined in the claims because it the most commonly accepted implementation method. So when there needs to be an update or maintenance, it can be easily fixed by an outside party without going through the process of learning how the system was implemented.

24. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Florance et al. It is old and well known in the art at the time of the invention, to incorporate a scanner in the input device. It would have been obvious to one of ordinary skill in the art to incorporate a scanner in the input device because it would allow pictures and drawings to be collected by the system database if size limitations prohibit pictures and drawings to be collected via a disk.

25. Claims 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Florance et al in view of Forward (US 6578011 B1).

26. As to claim 45, Florance et al do not expressly show providing a financial incentive to a party to enter into an agreement. However, Forward shows providing a financial incentive to a party to enter into an agreement (column 6 lines 53-64 *where it is clearly shown that a purchaser may receive a financial incentive such as reduced closing costs if a purchase is made through the item locator system. The purchasing transaction would invariably involve agreeing to a purchasing contract, which is interpreted as a future real estate agreement*). It would have been obvious to one of



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ordinary skill in the art at the time of the invention to modify Florance et al and add the feature where a financial incentive is provided to a party for entering into an agreement because more parties would supply property information making the system more information rich, which in turn would draw in more subscribers to the database because they can be confident in having access to a comprehensive database.

27. As to claim 46, Florance et al show the financial incentive comprises a reduction in closing costs (column 6 lines 60-62).

28. As to claim 47, Florance et al show the incentive is provided by a builder (column 7 lines 10-11).

29. As to claim 48, Florance et al show the incentive provided by various incentive providers (column 6 lines 42-60 *where because the type of incentive providers is not limited to a certain type, title companies would be able to provide the incentives*).

30. As to claim 49, Florance et al show the incentive comprising a reduction in costs relative to a mortgage (column 6 lines 64-66).

### ***Conclusion***

31. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure"

Scites, Larry US 20020072930 A1 - System and method for motivating submission of real estate referrals

Shaw, R. Frank et al. US 20030163347 A1 - Program for providing affordable housing

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Tao, Kamose US 20030200102 A1 - Real estate transaction method

Brauer, Jeff Jacob US 20020040319 A1 - Method and system for discounting  
and offering rebates in real estate and rental transactions

Forward; David R. US 6578011 B1 - System and method for directing and  
instructing customers to deal with specific merchants using incentives

Klivington, Eva T. et al. US 20030187756 A1 - Electronic realty and transaction  
system and method therein

Duncan; William James US 20070136166 A1 - Trading and settlement method  
and system

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Vern Cumarasegaran whose telephone number is 571-  
270-3273. The examiner can normally be reached on Monday - Friday 7:30am-5:00pm  
; alt Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Khoi Tran can be reached on 571-272-6919. The fax phone number for the  
organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VC



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